

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAVID EIDMAN,

Plaintiff,

:

**ORDER**

-against-

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08 Civ. 126 (SDW)(MCA)

ERNEST STANLEY O'NEAL, et al.

:

Defendants.

:

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In re: MERRILL LYNCH & CO., INC.,  
Securities, Derivative & ERISA Litigation  
-----X

:

07 Civ.9633 (LBS)

SAND, J.

By letter dated May 5, 2008, counsel for plaintiff David Eidman asks this Court to hear his motion to remand this case to the District of New Jersey alleging that it was fully briefed and pending at the time of the transfer order. Plaintiff asks that this Court hear the motion to remand "at its earliest convenience". No other party has as yet responded to this letter.

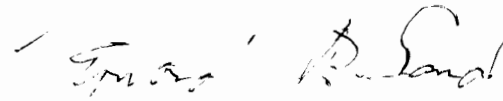
The Court believes that serious questions may exist as to the appropriateness of separate consideration of the motion to remand prior to further proceedings of the cases now consolidated pursuant to the transfer order.

The Court directs that counsel for Merrill Lynch and plaintiff brief to this court the question whether it is appropriate for the Court now to consider the aforementioned motion to remand separate and apart from any further proceedings in the consolidated cases. Any other party wishing to express its views on this issue is of course free to do so. All such submissions

shall be filed on or before June 12, 2008.

SO ORDERED.

Dated: New York, New York  
May 12, 2008

A handwritten signature in dark ink, appearing to read "Thomas R. Sand". The signature is written in a cursive style with a large, prominent "S" at the end.

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U.S.D.J.